IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 49 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

@

COMMISSIONER OF WEALTH-TAX

Versus

MANUBHAI BHIKABHAI

---

Appearance:

1. WEALTH TAX REFERENCE No. 49 of 1986

MR BB NAIK for MR MANISH R BHATT for Petitioner No. 1

SERVED BY RPAD - (N) for Respondent No. 1

---

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 24/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

At the instance of the revenue, the following two questions have been referred to this court for its opinion by the Income Tax Appellate Tribunal, Ahmedabad Bench 'C' under the provisions of sec..27(1) of the Wealth-tax Act, 1957 (hereinafter referred to as 'the Act').

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in confirming the order of the AAC to the effect that Sec. 7(4) was applicable in the valuation of self occupied property in the instant case, when the assessment year is 1974-75 and sec. 7(4) came into operation w.e.f. 1.4.1976?

2. Whether, on the facts and in the circumstances of the case the Tribunal was justified in confirming the order of the AAC to the effect that the reversionary value of the land cannot be taken into account for the purpose of valuation of rented property?

2. Learned advocate Shri BB Naik has appeared for the applicant whereas, though served, nobody has appeared for the respondent assessee.

3. It has been very fairly submitted by the learned advocate appearing for the revenue that the first question has been answered by this Court in the case of CWT v. Shri Niranjan Narottam, 173 ITR 693. Subsequently, the view expressed by this Court has been approved by the Hon'ble Supreme Court in the case of CWT v. Sharvan Kumar Swarup & Ors., 210 ITR 886. Looking to the law laid down by this Court and the Supreme Court, we answer the first question in the affirmative, i.e., in favour of the assessee and against the revenue.

4. So far as the second question is concerned, it appears that the Tribunal had taken a particular view because similar view was expressed by the Tribunal in the case of Nootan C. Parikh (W.T.A. No. 855 to 859/Ahd/83 decided on 4.11.1985. Upon inquiry, the learned advocate appearing for the revenue has submitted that it is not possible to know whether the view expressed by the Tribunal in the case of Nootan Parikh (supra) has been approved by this Court. In view of incomplete information and as we are not having relevant facts for the purpose of answering the question, we decline to answer the second question.

The reference sands disposed of accordingly with no order as to costs.

(A.R. Dave, J.)

(D.A. Mehta, J.)

(hn)